IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

OP.No. 3244 of 2003(J)

PETITIONER:

K.C.VARKEY, S/O. CHACKO, KANNIAKONIL HOUSE, NALUKODY, CHANGANACHERRY.

(HUSBAND OF LATE THRESIAMMA MATHEW, TEACHER, LITTLE FLOWER CONVENT HIGH SCHOOL, MAMMIYOOR.)

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT, SECRETARIAT, TRIVANDRUM.

2. THE ACCOUNTANT GENERAL OF KERALA, TRIVANDRUM.

3. THE DISTRICT EDUCATIONAL OFFICER, KATTAPPANA.

4. THE DISTRICT EDUCATIONAL OFFICER, ALAPPUZHA.

5. THE DEPUTY DIRECTOR OF EDUCATION, ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.T.B.REMANI.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.5744/2003 IN
OP.NO.3244/2003.

DISMISSED.

10/12/2007. SD/- A.K.BASHEER,JUDGE.

APPENDIX

EXT.P1: TRUE COPY OF ORDER DT. 22/4/93 BY R1

.EXT.P2: TRUE COPY OF ORDER DT. 6/3/92 BY R1.

EXT.P3: DO. DT. 17/6/95 BY R3.

EXT.P4: TRUE COPY OF LETTER DT. 10/3/70 FROM SECRETARY TO GOVT. TO THE CONTROLLER OF ACCOUNTS.

EXT.P5: TRUE COPY OF JUDGMENT DT. 5/8/2002 IN OP.15924/95.

EXT.P6: TRUE COPY OF ORDER DT. 14/11/2002 BY R1.

A.K. Basheer, J.

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O.P. No. 3244 of 2003

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Dated this the 10th day of December, 2007.

Judgment

Petitioner is the husband of late Thressiamma Mathew, a retired High School Assistant. The grievance of the petitioner is that the Department has not reckoned or computed 3 spells of his late wife's service for the purpose of pension. Therefore he prays for appropriate reliefs in this original petition. Relevant facts may be briefly noticed.

2. According to the petitioner, Smt.Thressiamma had worked in Little Flower Convent High School, Mammiyoor as an untrained teacher in a leave vacancy during the period from June 4, 1962 to March 29, 1963. But the Department refused to reckon the above period as pensionable service on the ground that the said period of service was not incorporated in her service book nor was the service certificate countersigned by the competent authority, respondent No.5 herein. In this context learned counsel invites my attention to Ext.P4 order of the Government issued in respect of another teacher in the year 1970. He contends that the stand taken by the Government in Ext.P4 is that there is no provision in Kerala Service Rules/Kerala Education Rules prohibiting the reckoning of untrained service for pension and therefore untrained service would be reckoned by audit for pension in all cases in the absence of any provision to the contrary in any of the Rules. I am afraid the above

order of the Government will not in any way help the petitioner. It is not in dispute that the pension sanctioning authority had not certified that petitioner had worked as an untrained teacher in an aided school from June 4, 1962 to March 29, 1963. Therefore the prayer made by the petitioner in this regard has to be repelled, as rightly done by the Government in Ext.P6. I do not find any reason to take a different view . The petitioner is not entitled to get any relief in this regard.

3. The other contention raised by the petitioner is that his wife Smt.Thressiamma had undergone B.Ed training from June 24, 1963 to April 17, 1964. But the above period was not reckoned by the Government as eligible service for pension since Smt.Thresiamma had not produced any document to show that she was sent by the Department for training. In other words, she did not complete the training as a departmental candidate in order to entitle her to get the above benefit. Even now the petitioner has not been able to produce any document to show that Smt.Thressiamma had completed the B.Ed course as a departmental candidate. Moreover, as already noticed, petitioner had worked in a leave vacancy from June 4, 1962 to March 29, 1963. Her services were terminated when the leave vacancy ceased to exit. Thereafter petitioner had not been appointed either against a regular vacancy or a leave vacancy. According to the petitioner Smt.Thressiamma had joined the B.Ed course on June 24, 1963. He does not have a case that at that time Smt.Thressiamma was working as a High school Assistant. In that view of the matter the Government, in my view, had rightly rejected the above claim also, in Ext.P6.

4. The third spell of service in respect of which Smt.Thressiamma claimed pensionary benefits was from August 19, 1976 to May 31, 1977. As regards this period, the claim made by Smt.Thressiamma was turned down since the Manager of the school had failed to forward the order of her appointment for approval to the District Educational Officer in time. Smt.Thresiamma had not apparently taken any steps to get her appointment approved for the above period. The Department had approved the appointment of Smt.Thressiamma only with effect from August 1, 1977. She had continued in service till March 31, 1992.

5. Smt.Thressiamma had filed OP.15924/95 long after her retirement. In the above original petition also the grievance of Smt.Thresiamma was that her untrained period of service was not reckoned for pensionary benefits. It was pursuant to a direction issued in the above case that the Government had passed Ext.P6 order . A perusal of Ext.P6 order undoubtedly shows that the Government had adverted to the entire aspects of the case. In the absence of any material to show that petitioner had worked as an untrained teacher from June 4, 1962 to March 29, 1963 she could not have claimed that the above period was liable to be reckoned for the purpose of pension. Similarly, she had failed to prove that she had undergone B.Ed training from June 24, 1963 to April 17, 1964 as a departmental candidate and while she was in service. Lastly, there was nothing on record to show that her appointment for the period from August 19, 1976 to May 31, 1977 had been approved by the Department.

6. For the above reasons I do not find any material illegality in Ext.P6 order passed by the Government. Similarly Exts.P1 and P3 also cannot be impugned by the petitioner.

Original Petition fails and it is accordingly dismissed.

A.K. Basheer
Judge.

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A.K. Basheer, J.

O.P.No.3244/2003

Judgment

10/12/2007.